



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: December 8, 2009

TO: Mayor and Councilmembers

FROM: Planning Division, Community Development Department

SUBJECT: Appeal Of Planning Commission Denial Of A Project At 617 Bradbury Avenue

RECOMMENDATION:

That Council uphold the appeal filed by David Lack to reverse the Planning Commission denial of the project, and approve the Modification and Tentative Subdivision Map, subject to the conditions of approval and findings outlined in Staff Hearing Officer Resolution No. 062-09. (MST2007-00559); direct applicant to restudy the architecture, and to submit to the Architectural Board of Review (ABR) a project with an architectural style similar to that of the buildings on the west side of Bradbury Avenue; and direct the ABR to allow a slight increase in the size, bulk and scale of the project, as required to change the architectural style of the building.

DISCUSSION:

Project Description

The proposed project involves the demolition of an existing single-family residence, and the construction of a 5,488 square foot (s.f.), three-story, mixed-use building with a maximum height of 29'8". The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure with six spaces. Two bicycle parking spaces and a changing room are provided on-site. The residential units are two 1,506 s.f., two-bedroom, three-story units at the rear of the lot. The commercial units are a total of 998 s.f. and are located on the first and second floor adjacent to the street. The proposal includes 2,015 s.f. of green roof and upper level landscape plantings.

Background

The Architectural Board of Review (ABR) reviewed the project five times prior to the Staff Hearing Officer's (SHO) initial hearing. The project was forwarded to the SHO with positive comments on a split vote. On June 17, 2009, the SHO held a public hearing on the proposed project and continued the item to July 15, 2009, to allow the applicant to study alternate locations of the required 15' by 15' common open space or request for a modification for the dimension and/or location of the required area. The SHO also requested the applicant to restudy the amount of proposed parking and the provision of

private garages, and the proposed second story balconies to address concerns regarding privacy issues between the project site and adjacent properties. The SHO suggested that the project return to the ABR for additional comments related to the project's size, bulk, and scale and neighborhood compatibility.

On June 29, 2009, the ABR reviewed a project that was revised slightly to respond to the SHO's concerns. The ABR continued the item to the SHO with comments (4-2) from the Board that the size, bulk and scale were appropriate. The Board stated that it would support the design for the open yard to accommodate the user's need for outdoor living and in addition to provide a visual benefit to the community and a more neighborhood feel.

At the July 15, 2009, hearing, the SHO found that the revised project adequately responded to the direction previously given and approved the project. The SHO also requested the applicant to continue to work with the ABR to further reduce the mass, bulk, and scale of the building particularly in regards to the third floor mass and to further study the privacy issues regarding the rear second story deck. Subsequently, a neighbor filed an appeal.

A neighbor, Wanda Livernois, filed an appeal of the SHO decision, and a Planning Commission (PC) appeal hearing was held on September 10, 2009. After much discussion by the Planning Commission, the appeal was upheld, and the project was denied. A discussion of the reasons for the PC's denial are included in the "Issues" section of this staff report.

Subsequently, an appeal was filed by the property owner, David Lack of LEED Santa Barbara. The appeal letter states that the PC decision to uphold Ms. Livernois appeal was inappropriate, and requests that the Council overturn the Planning Commission's denial of the project (see Attachment 1 – Appeal Letter). The appellant states that the project findings can be made; specifically, that the project will not have an adverse impact on the neighborhood's aesthetics and with the approval of the Modification and the Tentative Subdivision Map, the project complies with the Zoning Ordinance and the General Plan.

Appeal Issues

Common Open Space Modification

The project exceeds the private open space requirement, as well as the 10% open space requirement. However, the project must also provide a common open space that is at least 15' by 15'. The purpose of the common open space is to provide some recreational open space for occupants of the building. The common open space is not allowed in the front yard (setback or remaining yard). In this instance, locating the common open space in the front yard provides greater relief to the existing streetscape

and results in a neighborhood benefit creating a larger setback and green space instead of additional building mass at the street with a common open space only available to the private owners of the property.

The proposed common open space as shown on the plans is approximately 15'6" by 22'6", and includes the main walkway; however, the SHO stated that the main walkway into the development should not be included in the common open space area and required that the common open space be shown to exclude the 3' 6" wide walkway, thus reducing the common open space dimensions to 12' by 22' 6". In addition, a large palm tree is located within the common open space area. The ABR found the location to be appropriate, with the design to be further refined. The Planning Commission did not seem to have issues with this Modification, and denied the project on different grounds.

Neighborhood Compatibility

The project site is located north of the Brinkerhoff Landmark District and across the street to the west from El Pueblo Viejo Landmark District (EPV). While in proximity to these historic districts, the site is not located within the districts. Brinkerhoff Avenue is comprised of designated historic resources and has a unique character, architectural style, site design layout, and landscaping design which unifies the entire block giving it a distinctly separate and distinguishable continuity. The eastern side of Bradbury Avenue has a variety of architectural styles. The Frazee building site which is a through lot to Chapala Street and is the only lot which fronts Bradbury Avenue. This western edge of EPV has been developed with larger two and three-story projects fronting Chapala Street. The pattern of development on the western side of the street has a series of one to three story buildings varying in architectural styles including Victorian and Craftsman styles.

While some neighbors have expressed their desire to see Bradbury Street become its own or an extension of the Brinkerhoff Landmark District, Staff believes that the area lacks enough architectural or historic integrity to support enlarging the Brinkerhoff Landmark District or to create a new historic district along Bradbury Avenue. As stated previously, the ABR's opinion was that the size, bulk and scale of the proposed building is appropriate and compatible with the neighborhood. The proposed structure is less than 30 feet tall, and the majority of the mass is setback from the street. There is no evidence that the construction of this project would have an adverse physical effect on either EPV or the Brinkerhoff District.

Neighborhood Aesthetics

The ABR thought that the modern style architecture was compatible with the overall neighborhood, but Staff believes that the Planning Commission's denial of the project is based on the proposed architecture (modern style, with flat roofs, straight parapets, and largely stucco finish), which is a marked departure from the architecture of neighboring buildings on the same side of Bradbury Avenue (Victorian or Craftsman style, with sloped roofs and wood siding).

The Commission denied the project due a specific clause in finding C.3 which stated that the project “will not have an adverse impact upon the neighborhood's aesthetics.” The Commission felt that the building should have similar setback from the front property line as the adjacent properties on the westerly side of Bradbury Avenue and should be of a similar architectural style. The Planning Commission voted 4-0-0 to grant the appeal and deny the project without prejudice, which allows the applicant to resubmit a substantially similar project within one year.

Conclusion

It is Staff's position that the SHO appropriately considered all relevant issues pertaining to the application and its land use decision and made the appropriate findings to approve the proposed project. However, Staff is also sympathetic to the Planning Commission's issue of architectural style. Staff believes that it would be appropriate to require that the architectural style be changed to be more compatible with the buildings on the west side of Bradbury Avenue. Although such a change in architectural style could result in an increase in building height (flat roofs to pitched roofs) and the potential loss of some of the sustainable features (green roof is proposed on the flat roof), Staff believes that this would be an appropriate trade-off.

RECOMMENDATION:

Therefore, Staff recommends that the Council: 1) uphold the appeal, reverse the Planning Commission decision to deny the project and approve the Modification and Tentative Subdivision Map making the findings and subject to the conditions contained in Staff Hearing Officer Resolution 062-09 (Attachment 3); 2) direct applicant to restudy the architecture, and to submit to the ABR, a project whose architectural style is similar to that of the buildings on the west side of Bradbury Avenue; and 3) direct the ABR to allow a slight increase in the size, bulk and scale of the project, as required to change the architectural style of the building.

NOTE: The Project Plans, Staff Hearing Officer Staff Reports, and Planning Commission Staff Report are provided under separate cover.

ATTACHMENTS:

1. Appeal letter dated September 25, 2009
2. Planning Commission Minutes, 9/17/09, and PC Resolution 037-09
3. Staff Hearing Officer Minutes, 7/15/09, and SHO Resolution 062-09

PREPARED BY: Suzanne Riegle, Assistant Planner

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office

RECEIVED

SEP 25 2009

8:45pm ST

CITY CLERK'S OFFICE
SANTA BARBARA

September 25, 2009

Santa Barbara City Clerk
735 Anacapa Street
Santa Barbara, CA 93101-2203

Re: 617 Bradbury, Santa Barbara, CA 93101 – MST 2007-00559
Appeal – Planning Commission's September 17, 2009 Decision

To Whom It May Concern:

This letter is to request an appeal to the Planning Commission decision on Thursday, September 17, 2009 and:

1. Uphold the July 15, 2009 Staff Hearing Officer's ("SHO") Resolution 062-09 with findings to approve the application on the above referenced mixed use development with finding to support a Modification and Tentative Subdivision Map
2. Uphold the June 11, 2009 and the July 9, 2009 Staff Hearing Officer Report Staff Reports recommendations of the both the Senior Planner and the Assistant Planner
3. Uphold the June 29, 2009 Architectural Board of Reviews ("ABR") findings for architectural style, neighborhood compatibility and mass, bulk and scale.
4. Support City Planning staff's work with applicant over the past 2 ½ years to produce a project that complies with all current Zoning Ordinances and the future General Plan Updates.
5. Overturn the Planning Commission's September 17, 2009 determination.

Project Description:

The project consists of the demolition of an existing 392 SF single family residence and the construction of a sustainable, 5,488 square foot mixed-use development. The proposal will result in two commercial condominiums (a total of 998 SF) located on the first and second floors (19'-0"), two 1,506 SF residential condominiums 55'-6" from the front property line at the rear of the building on the second and third floors (Parapet is 29'-8") and on-grade parking structure. The proposal consists of 2,015 SF of green roof and upper level landscape planting. Two bicycle parking spaces and a changing room are provided on-site.

The project is a modest development in the downtown corridor on a C-2 lot, conforms to the City's zoning and Building ordinances and policies of the General Plan. The sizing and massing of the project were deemed compatible with the surrounding neighborhood by staff, the ABR and the SHO and well below the permitted 60' permitted by code or the 40' height proposed by Measure B.

The project is not located in the El Pueblo Viejo Landmark District nor the Brinkerhoff Landmark District.

Applicant requested one modification to allow the required common open area to be located in the front yard and/or smaller than the required dimensions. The project exceeds the size requirements for the Common Open Space (333.25 SF proposed if the walkway is included and 258 SF if the walkway is not included. Both dimensions exceed the 225 SF required) but does not meet the location requirements due to conflicting interpretation of the ordinance ("frontyard" setback—none required in a C-2 zone vs. "frontyard"). Although other solutions were considered that would result in the project that did not require a modification request, it was determined by ABR, staff and SHO that locating it on the roof would reduce the ability to achieve a sustainable building that includes green roofs and solar panels and negatively impact the design resulting in additional mass being brought forward to the street and would not allow all users of the building to commonly use the open space as intended by ordinance.

The project was appealed to the Planning Commission on September 17, 2009 who overturned SHO approval disregarding staff recommendations and ABR findings. Applicant has followed the rules, worked closely with staff, ABR and SHO over the past 2 ½ years on a sustainable project designed by reputable LEED architects. The project is compatible with the ordinances and policies of the City of Santa Barbara and based on sound planning. Applicant appreciates the opinions of the neighbors and people in opposition, but believes the project should be approved based on fact not opinion. Here are some of the relevant facts for this project:

As stated in the Staff Hearing Office Report, this proposed project warrants approval based on the following:

- "The modification is consistent with the purposes and intent of the Zoning Ordinance because a useable common open space is provided in a location found to be acceptable by ABR, and each of the residential units is being provided with more than double the required private outdoor living space. ...mass, bulk and scale has been found appropriate by the ABR."
- "Tentative Subdivision Map is consistent with the City of Santa Barbara's Zoning Ordinance and General Plan...proposed use is CONSISTENT with the vision for the West Downtown neighborhood of the General plan."
- "...project complies with all provisions of the City's Condominium Ordinance..."
- "...project is found consistent with the policies of the City's General Plan including the Land Use and Housing Elements... [and] will provide residential development that is compatible with the surrounding neighborhood."
- "...[ABR] found the architecture and site design appropriate."

Exemplary Design MERITS of this project include:

- LEED Platinum Certification
- Built Green Santa Barbara Participation
- Exemplary use of green roofs and solar energy
- Setbacks on all sides in a zero-lot line district-2'-6" at ground flr. up to 7' at 2nd flr.
- Ample setbacks at the sidewalk
- Height Limit is 60'. This building is designed to 29'-8". Complies with upcoming Measure B height reduction of 40'

- All parking proposed onsite... cars hidden from view. Additional parking provided to reduce impacts on parking stressed street.
- Required 225sf of Common Open Space exceeded by 126sf on site - **351sf Provided**
- Required 84sf of Private Outdoor Living Space exceeded by 160sf/unit - **254sf Provided**
- Required 10% of lot Open Space exceeded by 7% - **17% Provided**
- Storm Water retention and natural filtering done onsite
- Appropriate Mixed-use project for transitional street/neighborhood. Use is consistent with commercial and multi-family buildings found on both sides of the street.
- "Pedestrian Friendly" approach to the sidewalk
- Architectural Styling appropriate to the structures located on street and within neighborhood
- Upper level massing set back almost half the lot the depth
- Third story massing minimized to 1500sf.
- 21'-3" (42%) building frontage at sidewalk setback 3'-6"
- Remainder of building setback 22'-6" from sidewalk

Thank you for your consideration.

Sincerely,



LEED Santa Barbara, LLC, owner
 420 E. Carrillo Street
 Santa Barbara, CA 93101
 (805) 963-3600

III. STAFF HEARING OFFICER APPEALS:

ACTUAL TIME: 1:06 P.M.

APPEAL OF WANDA LIVERNOIS OF THE APPLICATION OF CLAY AURELL, ARCHITECT FOR LEED SANTA BARBARA LLC, 617 BRADBURY AVENUE, 037-122-006, C-2 COMMERCIAL ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)

This is an appeal of the July 15, 2009 Staff Hearing Officer decision to approve a Modification and Tentative Subdivision Map. The project consists of the demolition of an existing duplex, and the construction of a sustainable, 5,488 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Two bicycle parking spaces and a changing room are provided on-site. The residential units are two 1,506 s.f., two-bedroom, three-story units at the rear of the lot. The commercial units are a total of 998 s.f. and are located on the first and second floor adjacent to the street. The proposal includes 2,015 s.f. of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

Case Planner: Suzanne Riegle, Assistant Planner
Email: SRiegle@SantaBarbaraCA.gov

Suzanne Riegle, Assistant Planner, gave the Staff presentation.

Dawn Sherry, Architectural Board of Review (ABR) member, summarized the ABR's consensus for making the compatibility finding and made herself available to answer any of the Planning Commission's questions.

Wanda Livernois, Appellant, gave the appellant presentation.

Clay Aurell, Architect, gave the applicant presentation, joined by David Lack, Owner.

Chair Larson opened the public hearing at 1:40 P.M.

The following people spoke in support of the appeal, or with concerns:

1. Paul Zink, Architectural Board of Review, stated that the ABR decision was very divided and the project needs more refinement.
2. Bill Mahan stated that the Tentative Subdivision Map finding C.3 could not have been made with regard to neighborhood compatibility
3. Joan Livingston, Allied Neighborhood Association: neighborhood incompatibility.
4. Jeanne Kahre: neighborhood incompatibility; size/bulk/scale.
5. Myfawny Learned: neighborhood incompatibility
6. Michael Terry, speaking for Caroline Vassallo: neighborhood incompatibility
7. Marcie Woolfolk: neighborhood incompatibility
8. Mary Louise Days: neighborhood incompatibility
9. Tim Buynak: neighborhood incompatibility
10. Kellem de Forest: size/bulk/scale
11. Mark Masslen: neighborhood incompatibility; size/bulk/scale
12. Robert Livernois, neighborhood incompatibility; size/bulk/scale

The following people spoke in opposition to the appeal:

1. Steve Yates
2. Andy Roteman
3. Mike McCormack

With no one else wishing to speak, the public hearing was closed at 2:21 P.M.

Staff answered the Planning Commission's questions about the 15' X 15' common open space dimensions; explained the required finding for sound community planning; the status of the rear property line, and summarized the projects five reviews by the ABR.

Mr. Aurell responded that the top of the parapet was below 30' and elaborated on the vegetation on the green roof and its low-water requirements.

The Commissioners made the following comments:

1. Commissioner Jacobs acknowledged the public input of the neighborhood. Puzzled that ABR found the project consistent with the existing neighborhood; did not see that the compatibility standard was met. Would like to see the project reviewed by the Historic Landmarks Committee and that story poles be mandatory. Cannot support the project and will uphold the appeal.
2. Commissioner Lodge appreciated that the applicant looked at the Victorian house across the street and used similar materials, but felt that the project needs to fit with the neighborhood.
3. Commissioner Jostes acknowledged the extent that the applicant has gone to make the project sustainable. Concerned with the project not being compatible with the neighborhood. The project maximizes use of the land at the expense of neighborhood compatibility.
4. Although the staff report described that the General Plan "envisioned that the properties from De La Vina to Chapala would transition over time from single

family residential to higher density residential or low intensity commercial uses,” the majority of the Commission believed that the General Plan described the area as a “transitional” neighborhood that provided a buffer between the residential areas to the west, and the commercial area to the east, rather than a neighborhood, “in transition” from one type of land use to another. Therefore, the Commission could not make the required finding and support project. Believes the scale and bulk can be reduced by reducing the bedroom sizes. The architecture needs to be softened. (Later review of the Land Use Element revealed that it describes the West Downtown neighborhood as follows: “...new apartment complexes are replacing older single-family houses as West Downtown continues in transition to higher density residential and commercial uses....”)

MOTION: Jacobs/Lodge

Assigned Resolution No. 037-09

Uphold the appeal and deny the project. Recommended that if the project is resubmitted, the Historic Landmarks Committee should be given a courtesy review.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Bartlett, Thompson, White)

Scott Vincent, Assistant City Attorney, stated that per the Municipal Code, it was not in the Commission’s purview to designate which review board could review which projects.

MOTION: Jostes/Jacobs

Motion to reconsider the prior motion.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Bartlett, Thompson, White)

MOTION: Jacobs/Lodge

Assigned Resolution No. 037-09

Uphold the appeal and deny the project.

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: 0 Absent: 3 (Bartlett, Thompson, White)

Chair Larson announced the ten calendar day appeal period.

Mr. Kato sought input from the Commission on following the recommendations of Review Boards, which in this instance had found the project compatible with the neighborhood. Mr. Jostes stated that findings are viewed consistent with the principles of sound community planning. Commissioners Jostes and Jacobs referenced the multi-review board meeting that was held in July 18, 2007, and given the changes in review board membership, recommended that a similar meeting be put together again.

Mr. Vincent stated that the system that came out of the July meeting led to compatibility criteria that was adopted in the Historic Landmarks Committee and Architectural Board of Review sections of Title 22, and gave a communication tool for each Board and Commission and does not necessitate that each review board would arrive at the same conclusion.

IV. ADMINISTRATIVE AGENDA

ACTUAL TIME: 3:00 P.M.

A. Committee and Liaison Reports.

1. Staff Hearing Officer Liaison Report

Chair Larson reported on the Staff Hearing Officer meeting of September 9, 2009.

2. Other Committee and Liaison Reports

a. Commissioner Lodge reported on the Downtown Parking Committee meeting of September 10, 2009.

B. Action on the review and consideration of the following Draft Minutes and Resolutions:

a. Draft Minutes of August 20, 2009

b. Resolution 030-09
500 N. Milpas Street

c. Resolution 031-09
226 and 232 Eucalyptus Drive

d. Resolution 032-09
803 N. Milpas Street

e. Draft Minutes of September 3, 2009

f. Resolution 033-09
124 Los Aguajes Avenue

MOTION: Jostes/Lodge

Continue the Minutes and Resolutions of August 20, 2009 to September 24, 2009
and approve the Minutes and Resolutions of September 3, 2009

This motion carried by the following vote:

Ayes: 4 Noes: 0 Abstain: As noted. Absent: 3 (Bartlett, Thompson, White)

VII. ADJOURNMENT

Chair Larson adjourned the meeting at 3:07 P.M.

Submitted by,



Julie Rodriguez, Planning Commission Secretary



City of Santa Barbara California

CITY OF SANTA BARBARA PLANNING COMMISSION

RESOLUTION NO. 037-09

617 BRADBURY AVENUE

FRONT YARD MODIFICATION AND TENTATIVE SUBDIVISION MAP

SEPTEMBER 17, 2009

**APPEAL OF WANDA LIVERNOIS OF THE APPLICATION OF CLAY AURELL,
ARCHITECT FOR LEED SANTA BARBARA LLC, 617 BRADBURY AVENUE, 037-122-006,
C-2 COMMERCIAL ZONES, GENERAL PLAN DESIGNATION:
COMMERICAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)**

This was an appeal of the July 15, 2009 Staff Hearing Officer decision to approve a Modification and Tentative Subdivision Map. The project consists of the demolition of an existing duplex, and the construction of a sustainable, 5,488 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Two bicycle parking spaces and a changing room are provided on-site. The residential units are two 1,506 s.f., two-bedroom, three-story units at the rear of the lot. The commercial units are a total of 998 s.f. and are located on the first and second floor adjacent to the street. The proposal includes 2,015 s.f. of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

WHEREAS, the Planning Commission has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, 12 people appeared to speak in favor of the appeal, and 3 people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, September 10, 2009
2. Site Plans
3. Correspondence received in support of the appeal, or with concerns:
 1. Judy Orias, Allied Neighborhood Association, via email
 2. Caroline Vassallo, via email
 3. Marcella Woolfolk, via email

4. James and Kathleen Smock, via email
5. Jeanne Kahre, via email
6. Karen McFadden, via email
7. Wanda Livernois, via email
8. Neighborhood petition with 20 signatures
9. Theony Condos, via email
10. Naomi Kovacs, Citizens Planning Association, via email
11. Barry Dubin, via email
12. Deidre Dubin, via email
13. John Vasi, Santa Barbara, CA
14. Wendy Foster, via email
15. Barbara Prumeau, Santa Barbara, CA
16. Mark Maslan and Ann Cumming, Santa Barbara, CA
17. Correspondence received in opposition to the appeal:
18. Clay Aurell, via email
19. Greg Griffin, via email
20. Barry Winick, via email
21. Mike McCormack, Santa Barbara, CA

NOW, THEREFORE BE IT RESOLVED that the City Planning Commission upheld the appeal and denied the project due to the inability to make finding C.3 found on page 4 of the July 15, 2009 Staff Hearing Officer Staff Report.

This motion was passed and adopted on the 17th day of September, 2009 by the Planning Commission of the city of Santa Barbara, by the following vote:

AYES: 4 NOES: 0 ABSTAIN: 0 ABSENT: 3 (Bartlett, Thompson, White)

PLANNING COMMISSION RESOLUTION No. 037-09
617 BRADBURY AVENUE
SEPTEMBER 17, 2009
PAGE 3

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Planning Commission at its meeting of the above date.



Julie Rodriguez, Planning Commission Secretary



Date

THIS ACTION OF THE PLANNING COMMISSION CAN BE APPEALED TO THE CITY COUNCIL WITHIN TEN (10) DAYS AFTER THE DATE THE ACTION WAS TAKEN BY THE PLANNING COMMISSION.

The Public Hearing was opened at 9:46 a.m.

Cathey Wilkins, opposed: design will build upon, intensify and extend the life of the existing non-conforming structures (submitted written comments and photographs).

The public hearing was closed at 9:55 a.m.

Ms. Reardon stated that the proposed second garage sink is to be removed, and if the garage were to be, the new garage must meet 20'x20' interior clear space dimension. Ms. Reardon also stated that if the hedge height posed a visibility issue, it may be required to be trimmed during the plan check process.

ACTION:

Assigned Resolution No. 061-09

Approved the subject application making the finding that the Modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement on the lot. The proposed roof change is appropriate because it will allow the existing garage to be upgraded architecturally to match the new residential design with minimal change to existing conditions.

Said approval is subject to the conditions that the second sink in the garage is to be removed, and if the garage is to be demolished, the new garage interior space shall measure 20' x 20'.

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

ACTUAL TIME: 9:59 A.M.

CONTINUED FROM JUNE 17, 2009

E. APPLICATION OF CLAY AURELL, ARCHITECT FOR LEED SANTA BARBARA LLC, 617 BRADBURY AVENUE, 037-122-006, C-2 COMMERCIAL ZONES, GENERAL PLAN DESIGNATION: COMMERCIAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)

The project consists of the demolition of an existing duplex, and the construction of a sustainable, 5,897 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Bicycle parking and a changing room are provided within the garage structure. The residential units are 1,508 square feet, two-bedroom, and three-story units at the rear of the lot. The commercial units are a total of 983 square feet and are located on the first and second floor adjacent to the street. The proposal includes 2,015 square feet of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

Danny Kato, Senior Planner, gave the Staff presentation and recommendation. Mr. Kato stated that the project was continued from the previous SHO hearing due to an error in failing to note that the Zoning Ordinance requires a 15x15 open space on the lot which cannot be located in the front yard. The 15x15 open space proposed in the front yard does not meet Zoning Ordinance requirements. Mr. Kato reported on the ABR's comments and concerns.

Mr. Kato stated that the three foot wide strip of land to the west of this site is owned by the heirs of the original subdivision, not the City as previously thought.

Present: Clay Aurell, Architect; Josh Blummer, Associate; Fae Perry and David Black, Owners; Jack Kessel, Landscape Architect.

Ms. Reardon announced that she read the Staff Report for the proposed project and also visited the site and surrounding neighborhood.

Ms. Reardon asked whether other areas were considered for the open space. Mr. Aurell stated that staff suggested having open space on the roof, but ADA issues prevented that option. An alternative was to utilize space at an upper level deck, but the 15 foot dimension was not acceptable. The best option was to have open space at the ground plane.

The Public Hearing was opened at 10:35 a.m.

Caroline Vassallo, opposed: three ABR members had problems with size, bulk, scale, and were concerned about lack of story poles. Not opposed to mixed use, but sensitivity of street charm is needed.

Wanda Livernois: surprised by applicant's problem with uncovered parking; requested copies of story pole photographs.

Robert Livernois: questioned whether story poles were installed; opposed to tree removal; supported the parking.

Andy Roteman: in support of the modification; having open yard space in front is the best option.

A letter in support of the project from Greg Griffin was acknowledged.

Two letters in opposition of the project from Karen McFadden and Theony Condos.

The Public Hearing was closed at 10:47 a.m.

Ms. Reardon questioned whether there is room to have an open garage and a closed garage for each unit. Ms. Swanson explained that it might be reasonable to reduce the garage width by 6 inches providing a garage narrower for the single user, allowing the open shared garage space to be wider.

Ms. Reardon stated that the added planters on the second story decks that are to be located on the north and south sides responds adequately to her previous concerns, but requested the ABR to restudy the privacy issues related to the proposed balconies on the west (rear) side of the proposed building for an appropriate solution. Ms. Reardon also asked the applicant to work with the ABR to further reduce the mass, bulk and scale of the building in particular with regards to the third floor mass.

ACTION:

Assigned Resolution No. 062-09

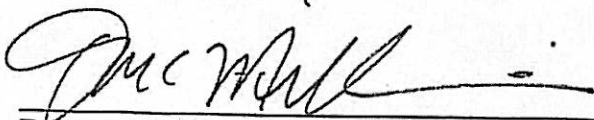
Approved the subject application making the findings contained in the Staff Report dated July 9, 2009, as revised at the hearing, and subject to the Conditions of Approval contained in Exhibit A of the Staff Report dated June 11, 2009, as revised at the hearing, with the following conditions: 1) B.1: revise to state "...parking is provided in two residential one-car garages and five open parking spaces..."; 2) B.2: delete "the following three protection measures shall be incorporated" and 3) add the new condition "H.7. Story Pole Photographic Record. The applicant shall submit photographs of the completed building from the same locations as the photographs taken of the story pole installation for recordation purposes."

The ten calendar day appeal period to the Planning Commission and subject to suspension for review by the Planning Commission was announced.

III. ADJOURNMENT:

Ms. Reardon adjourned the meeting at 11:46 a.m.

Submitted by,



Deana McMillion, Administrative/Clerical Supervisor on behalf of
Gloria Shafer, Staff Hearing Officer Secretary



City of Santa Barbara California

CITY OF SANTA BARBARA STAFF HEARING OFFICER

RESOLUTION NO. 062-09

617 BRADBURY AVENUE

MODIFICATION AND TENTATIVE SUBDIVISION MAP

JULY 15, 2009

**APPLICATION OF CLAY AURELL, ARCHITECT FOR LEED SANTA BARBARA LLC,
617 BRADBURY AVENUE, 037-122-006, C-2 COMMERCIAL ZONES, GENERAL PLAN
DESIGNATION: COMMERCIAL/RESIDENTIAL 12 UNITS/ACRE (MST2007-00559)**

The project consists of the demolition of an existing single-family residence, and the construction of a sustainable, 5,897 square foot, three-story, mixed-use building. The proposal will result in two residential condominiums and two commercial condominiums, with an on-grade parking structure. Bicycle parking and a changing room are provided within the garage structure. The residential units are 1,508 square foot, two-bedroom, and three-story units at the rear of the lot. The commercial units are a total of 983 square feet and are located on the first and second floor adjacent to the street. The proposal includes 2,015 square feet of green roof and upper level landscape plantings.

The discretionary applications required for this project are:

1. A Modification to allow the required common open area to be located in the front yard, and/or smaller than the required dimensions (SBMC §28.21.081.A.3. and §28.92.110.A); and
2. A Tentative Subdivision Map for a one-lot subdivision to create two (2) commercial and two (2) residential condominium units (SBMC 27.07 and 27.13).

The Environmental Analyst has determined that the project is exempt from further environmental review pursuant to the California Environmental Quality Guidelines Section 15303 (New Construction of Small Structures) and 15315 (Minor Land Use Divisions).

WHEREAS, the Staff Hearing Officer has held the required public hearing on the above application, and the Applicant was present.

WHEREAS, one person appeared to speak in favor of the application, and three people appeared to speak in opposition thereto, and the following exhibits were presented for the record:

1. Staff Report with Attachments, July 9, 2009.
2. Staff Report and Attachments, June 17, 2009.
3. Site Plans
4. Correspondence received in support of the project:
Greg Griffin, 428 De La Vina Street, Santa Barbara, CA

5. Correspondence received in opposition to the project:
 - a. Theony Candos, 4754 Camino del Rey, Santa Barbara, CA
 - b. Karen McFadden, submitted via e-mail

NOW, THEREFORE BE IT RESOLVED that the City Staff Hearing Officer:

I. Approved the subject application making the following findings and determinations:

A. Modification (SBMC §28.21.081.A.3. and §28.92.110.A)

The modification is consistent with the purposes and intent of the Zoning Ordinance and is necessary to secure an appropriate improvement of the lot. Each of the residential units of this mixed-use building has more than double the required private outdoor living space which provides adequate useable outdoor area. The proposed 270 square foot common open space, although it does not meet minimum dimensions, provides adequate useable outdoor space for both the commercial and residential tenants.

B. Tentative Map (SBMC §27.07.100)

With approval of the Modification, the Tentative Subdivision Map is consistent with the City of Santa Barbara's Zoning Ordinance and General Plan as discussed in Sections V and VI of the June 11, 2009, staff report. The site is physically suitable for the proposed development, and the proposed use is consistent with the vision for the West Downtown neighborhood of the General Plan.

As discussed in Section VIII of the June 11, 2009, staff report, the design of the project will not cause substantial environmental damage, and associated improvements will not cause serious public health problems

C. New Condominium Development (SBMC §27.13.080)

1. As demonstrated in Section V and VI of the June 11, 2009, staff report, and with approval of the modification of the common open area, the project complies with all provisions of the City's Condominium Ordinance, including density requirements, laundry facilities, separate utility metering, adequate unit size, and the required private outdoor living space.

2. The proposed development is consistent with the General Plan of the city of Santa Barbara.

The project is found consistent with policies of the City's General Plan including the Land Use and Housing Elements, as discussed in Section VII.B of the June 11, 2009, staff report. The project will provide residential development that is compatible with the surrounding neighborhood.

3. The proposed development is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities and resources.

The project is an infill residential project proposed in an area where residential development is a permitted use. The design has been reviewed by the Architectural Board of Review, which found the architecture and site design appropriate. The project is adequately served by public streets, will provide adequate parking to meet the demands of the project and will not result in traffic impacts, as described in the June 11, 2009, staff report. In addition, a stated goal of the project is LEED Platinum certification.

- II. In consideration of the project approval granted by the Staff Hearing Officer and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- A. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Staff Hearing Officer land use conditions have been satisfied.

1. **Useable Common Open Space.** Adequate usable common open space shall be provided in a location accessible by all units within the development.
2. **Pedestrian Pathway.** A separate pedestrian pathway shall be provided to the units at the rear of the property from the sidewalk using a different walkway material.
3. **Minimize Visual Effect of Paving.** Textured or colored pavement shall be used in paved areas of the project to minimize the visual effect of the expanse of paving, create a pedestrian environment, and provide access for all users.
4. **Screened Check Valve/Backflow.** The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.

- B. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an "Agreement Relating to Subdivision Map Conditions Imposed on Real Property," which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

1. **Approved Development.** The development of the Real Property approved by the Staff Hearing Officer on July 15, 2009, is limited to a three-story, 5,978 square foot mixed use building on a 5,000 square foot lot located in the Central Business District. The proposal includes two residential condominiums and two commercial condominium units totaling 918 square feet of non-residential square footage. Parking is provided in two residential one-car garages and four open parking spaces (1 parking space is accessible) on the ground floor of the project and the improvements shown on the Tentative Subdivision Map signed by the Staff Hearing Officer on said date and on file at the City of Santa Barbara.
2. **Uninterrupted Water Flow.** The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.
3. **Recreational Vehicle Storage Prohibition.** No recreational vehicles, boats, or trailers shall be stored on the Real Property.
4. **Landscape Plan Compliance.** The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.
5. **Storm Water Pollution Control and Drainage Systems Maintenance.** Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

6. **Required Private Covenants.** The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:
 - a. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
 - b. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
 - c. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
 - d. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
 - e. **Gates.** Any gates that have the potential to block access to any designated commercial space shall be locked in the open position during business hours.
 - f. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.
7. **Use Limitations.** Due to potential parking impacts, the conversion of residential units to commercial floor area is not permitted without further environmental and/or Staff Hearing Officer review and approval. Prior to initiating a change of use, the Owner shall submit a letter to the Community Development Director detailing the proposal, and the Director shall determine the appropriate review procedure and notify the Applicant.

- C. **Public Works Submittal Prior to Parcel Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Parcel Map and prior to the issuance of any permits for the project:
1. **Parcel Map.** The Owner shall submit to the Public Works Department for approval, a Parcel Map prepared by a licensed land surveyor or registered Civil Engineer. The Parcel Map shall conform to the requirements of the City Survey Control Ordinance.
 2. **Water Rights Assignment Agreement.** The Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff will prepare said agreement for the Owner's signature.
 3. **Required Private Covenants.** The Owner shall submit a copy of the recorded private covenants, reciprocal easement agreement, or similar private agreements required for the project. If the private covenants required pursuant to Section B.6. above have not yet been approved by the Department of Real Estate, a draft of such covenants shall be submitted.
 4. **Drainage Calculations/Hydrology Report.** The Owner shall submit drainage calculations prepared by a registered civil engineer demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.
 5. **Drainage and Water Quality.** Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants, or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.
 6. **Bradbury Avenue Public Improvements.** The Owner shall submit building plans for construction of improvements along the property frontage on Bradbury Avenue. As determined by the Public Works Department, the improvements shall include the following: sidewalk (width to match existing), parkway, supply on a install one 36 inch minimum box size Pyrus kawakamii (Evergreen Pear), residential driveway apron modified to meet Title 24 requirements, raise

existing sandstone curb, crack seal to the centerline of the street along entire subject property frontage and slurry seal a minimum of 20 feet beyond the limit of all trenching, connection to City water and sewer mains, one new sewer lateral, public drainage improvements with supporting drainage calculations for installation of curb drain outlets, preserve and/or reset survey monuments and contractor stamps, supply and install directional/regulatory traffic control signs per MUTCD with CA supplements, new street trees and tree grates per approval of the City Arborist and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.

7. **Land Development Agreement.** The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement, and prior to recordation of the map if improvements are not complete at the time of map recordation.
 8. **Removal or Relocation of Public Facilities.** Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.
- D. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.
1. **Recordation of Parcel Map Agreements.** After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department, or shall submit securities for the public improvements if map recordation is deferred until following construction.
- E. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:
1. **Neighborhood Notification Prior to Construction.** At least twenty (20) days prior to commencement of construction, the contractor shall provide written notice to all property owners, businesses, and residents within 300 feet of the project area. The notice shall contain a description of the project, the construction schedule, including days and hours of construction, the name and phone number of the Contractor(s), site rules and Conditions of Approval pertaining to construction activities and any additional information that will assist the Building Inspectors, Police Officers and the public in addressing problems that may arise during construction. The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

2. **Contractor and Subcontractor Notification.** The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.
 3. **Traffic Control Plan.** A traffic control plan shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Transportation Manager.
 4. **Green Building Techniques Required.** Owner shall design the project to meet Santa Barbara Built Green Two-Star Standards and strive to meet the Three-Star Standards.
 5. **Tenant Displacement Assistance Ordinance Compliance.** Submit evidence of compliance with the Tenant Displacement Assistance Ordinance (SBMC Chapter 28.89).
- F. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits:
1. **Design Review Requirements.** Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section A above.
 2. **Grading Plan Requirement for Archaeological Resources.** The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

3. **Post-Construction Erosion Control and Water Quality Plan.** Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, as outlined in Condition C.5. above, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.
4. **Emergency Evacuation Plan.** Provide an emergency evacuation plan subject to approval by the Fire Department.
5. **Trash Enclosure Provision.** A trash enclosure with adequate area for recycling containers (an area that allows for a minimum of 50 percent of the total capacity for recycling containers) shall be provided on the Real Property and screened from view from surrounding properties and the street.

Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within five (5) feet of combustible walls, openings, or roofs, unless protected with fire sprinklers.

6. **Conditions on Plans/Signatures.** The final Staff Hearing Officer Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

Property Owner	Date
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Contractor	Date	License No.
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Architect	Date	License No.
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Engineer	Date	License No.
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G. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

1. **Demolition/Construction Materials Recycling.** Recycling and/or reuse of demolition/construction materials shall be carried out to the extent feasible, and containers shall be provided on site for that purpose, in order to minimize construction-generated waste conveyed to the landfill. Indicate on the plans the location of a container of sufficient size to handle the materials, subject to review and approval by the City Solid Waste Specialist, for collection of demolition/construction materials. A minimum of 90% of demolition and construction materials shall be recycled or reused. Evidence shall be submitted at each inspection to show that recycling and/or reuse goals are being met.
2. **Sandstone Curb Recycling.** Any existing sandstone curb in the public right-of-way that is removed and not reused shall be salvaged and sent to the City Corporation Annex Yard.
3. **Construction-Related Truck Trips.** Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.
4. **Construction Related Traffic Routes.** The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager.
5. **Haul Routes.** The haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.
6. **Traffic Control Plan.** All elements of the approved Traffic Control Plan shall be carried out by the Contractor.

7. **Construction Hours.** Construction (including preparation for construction work) is prohibited Monday through Friday before 7:00 a.m. and after 5:00 p.m., and all day on Saturdays, Sundays and holidays observed by the City of Santa Barbara, as shown below: (look at longer or shorter hours and Saturday construction, depending on project location)

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31 st *
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

When, based on required construction type or other appropriate reasons, it is necessary to do work outside the allowed construction hours, contractor shall contact the Chief of Building and Safety to request a waiver from the above construction hours, using the procedure outlined in Santa Barbara Municipal Code §9.16.015 Construction Work at Night. Contractor shall notify all residents within 300 feet of the parcel of intent to carry out night construction a minimum of 48 hours prior to said construction. Said notification shall include what the work includes, the reason for the work, the duration of the proposed work and a contact number.

8. **Construction Parking/Storage/Staging.** Construction parking and storage shall be provided as follows:
- During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined in subparagraph b. below.
 - Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.

- c. Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.
9. **Existing Tree Preservation.** The existing tree(s) shown on the approved Tentative Subdivision Map and Site Plan to be saved shall be preserved and protected and fenced three feet outside the dripline during construction.
10. **Construction Equipment Maintenance.** All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.
11. **Graffiti Abatement Required.** Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.
12. **Unanticipated Archaeological Resources Contractor Notification.** Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

- H. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:
1. **Repair Damaged Public Improvements.** Repair any damaged public improvements (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.
 2. **Complete Public Improvements.** Public improvements, as shown in the improvement/building plans, including utility service undergrounding and installation of street trees.
 3. **Cross-Connection Inspection.** The Owner shall request a cross connection inspection by the Public Works Water Reclamation/Cross Connection Specialist.
 4. **Fire Hydrant Replacement.** Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.
 5. **Manholes.** Raise all sewer and water manholes on easement to final finished grade.
 6. **Existing Street Trees.** Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.
 7. **Evidence of Private CC&Rs Recordation.** Evidence shall be provided that the private CC&Rs required in Section B have been recorded.
 8. **Story Pole Photographic Record.** The applicant shall submit photographs of the completed building from the same locations as the photographs taken of the story pole installation for recordation purposes.
- I. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors ("City's Agents") from any third party legal challenge to the City Council's denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively "Claims"). Applicant/Owner further agrees to indemnify and hold harmless the City and the City's Agents from any award of attorney fees or court costs made in connection with any Claim.

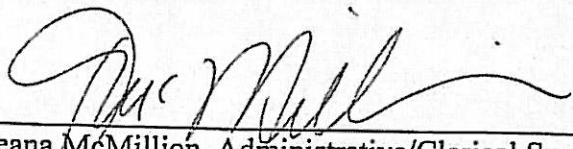
Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City's sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City's Agents from independently defending any Claim. If the City or the City's Agents decide to independently defend a Claim, the City and the City's Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

NOTICE OF TENTATIVE SUBDIVISION MAP (INCLUDING NEW CONDOMINIUMS AND CONDOMINIUM CONVERSIONS) TIME LIMITS:

The Staff Hearing Officer's action approving the Tentative Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

This motion was passed and adopted on the 15th day of July, 2009, by the Staff Hearing Officer of the city of Santa Barbara.

I hereby certify that this Resolution correctly reflects the action taken by the city of Santa Barbara Staff Hearing Officer at its meeting of the above date.


Deana McMillion, Administrative/Clerical Supervisor on behalf of
Gloria Shafer, Staff Hearing Officer Secretary

7-21-09
Date

PLEASE BE ADVISED:

1. This action of the Staff Hearing Officer can be appealed to the Planning Commission or the City Council within ten (10) days after the date the action was taken by the Staff Hearing Officer.
2. If the scope of work exceeds the extent described in the Modification request or that which was represented to the Staff Hearing Officer at the public hearing, it may render the Staff Hearing Officer approval null and void.
3. If you have any existing zoning violations on the property, other than those included in the conditions above, they must be corrected within thirty (30) days of this action.
4. Subsequent to the outcome of any appeal action your next administrative step should be to apply for Architectural Board of Review (ABR) approval and then a building permit.
5. **PLEASE NOTE: A copy of this resolution shall be reproduced on the first sheet of the drawings submitted with the application for a building permit.** The location, size and design of the construction proposed in the application for the building permit shall not deviate from the location, size and design of construction approved in this modification.
6. **NOTICE OF APPROVAL TIME LIMITS:** The Staff Hearing Officer's action approving the Performance Standard Permit or Modifications shall expire two (2) years from the date of the approval, per SBMC §28.87.360, unless:
 - a. A building permit for the construction authorized by the approval is issued within twenty four months of the approval. (An extension may be granted by the Staff Hearing Officer if the construction authorized by the permit is being diligently pursued to completion.) or;
 - b. The approved use has been discontinued, abandoned or unused for a period of six months following the earlier of:
 - i. an Issuance of a Certificate of Occupancy for the use, or;
 - ii. one (1) year from granting the approval.